

Attorney Docket No.: 2102475-991160

REMARKS

Claims 1-17 are pending in this application. Claims 1-17 have been rejected. Claims 1-17 have been cancelled without prejudice. Claims 18-35 have been added.

The drawings have been objected to under 37 C.F.R. § 1.83(a), for not showing "the claim matter in claim 10 where the first intermediate layer is the uppermost layer." Claim 10 has been cancelled without prejudice.

Claims 1-17 have been rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1-17 have been cancelled without prejudice.

Claims 1-2 and 6-8 have been rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,262,487 *Igarashi et al.* Claims 3 and 11 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,262,487 *Igarashi et al.* in view of U.S. Patent No. 6,246,112 *Ball et al.* Claims 1-17 have been cancelled without prejudice.

New claims 18-35 have been added to include claim coverage to which applicant believes it is entitled. New claim 18 recites "a first intermediate layer having a first thickness and provided above the substrate layer" and "a second intermediate layer having a second thickness thinner than the first thickness and provided above the first intermediate layer." New independent claim 27 recites "a first intermediate layer having a first thickness and provided above the semiconductor substrate IP core area" and "a second intermediate layer having a second thickness smaller than the first thickness and provided above the first intermediate layer in the IP core area."

Applicant notes that this patent application was filed September 27, 2001 which is after the November 29, 2000 effective date of the changes to 35 U.S.C. § 102(e) under the American

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Inventors Protection Act of 1999. Applicant also notes that under the recent legislation H.R. 2215, now Public Law 107-273, the revised 35 U.S.C. § 102(e) applies to applications pending on or filed after November 29, 2000. Because the *Igarashi et al.* patent and this patent application are assigned to the assignee, it is respectfully submitted that it is improper to cite *Igarashi et al.* under 35 U.S.C. § 103(c) as a 35 U.S.C. § 102(e)/103 reference.

Notwithstanding its inappropriateness as a reference, *Igarashi et al.* at best merely discloses a thick intermediate layer provided above a thin intermediate layer such as seen in Figures 5, 21, and 22. *Ball et al.* at best merely discloses a device in which the layers are formed having the same thickness such as shown in Figures 1 and 2. The first and second intermediate layers recited in the new claims 18 and 27 are not disclosed or even suggested in *Igarashi et al.* or *Ball et al.*, either individually or in combination.

Therefore, neither *Igarashi et al.* nor *Ball et al.*, either individually or in combination, disclose or even suggest the first intermediate layer having a first thickness and a second intermediate layer having a second thickness thinner than the first thickness as recited in new claims 18 and 27. Lacking this claimed feature, neither *Igarashi et al.* nor *Ball et al.* either individually or in combination can render claims 18 and 27 unpatentable. Claims 19-26 depend directly or indirectly on new independent claim 18 and new claims 28-35 depend directly or indirectly on new independent claim 27, for similar reasons the references cannot render claims 18-35 unpatentable. Therefore, it is respectfully submitted that claims 18-35 are patentable over the references of record.

It is submitted that claims 18-35 are allowable, and allowance and issuance of this application is respectfully requested.

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Please charge any additional fees, including any fees necessary for extensions of time, or credit overpayment to Deposit Account No. 07-1896, referencing 2102475-991160.

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GRAY CARY WARE & FREIDENRICH LLP

By Ed B. Weller
Edward B. Weller
Reg. No. 37,468
Attorney for Applicants

ATTN: Patent Department
GRAY CARY WARE & FREIDENRICH LLP
1755 Embarcadero Road
Palo Alto, CA 94303-3340
Tel: (650) 833-2436
Fax: (650) 320-7401

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